

10-16-2007

CORPORATE CRIME. REPORTING OBLIGATIONS FOR EXECUTIVES AND MANAGERS. STATUTE.

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CORPORATE CRIME. REPORTING OBLIGATIONS FOR EXECUTIVES AND MANAGERS. STATUTE. California Initiative 1283 (2007).
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DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

April 2, 2008

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPOSERS (08128)

FROM:

A handwritten signature in blue ink, appearing to read 'Katherine Montgomery', written over a horizontal line.

KATHERINE MONTGOMERY
Associate Elections Analyst

SUBJECT: FAILURE OF INITIATIVE #1283

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named initiative statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: CORPORATE CRIME. REPORTING OBLIGATIONS FOR
EXECUTIVES AND MANAGERS. STATUTE.

SUMMARY DATE: 10/16/07

PROPOSERS: James C. Harrison and Margaret R. Prinzing



DEBRA BOWEN, SECRETARY OF STATE
STATE OF CALIFORNIA, ELECTIONS

1500 11th Street, 5th Floor Sacramento, CA 95814 Tel (916) 657-2166 Fax (916) 655-3214 www.sos.ca.gov

October 16, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENT
(07181)

FROM: 
KATHERINE MONTGOMERY
Elections Analyst

SUBJECT: INITIATIVE #1283

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

CORPORATE CRIME. REPORTING OBLIGATIONS
FOR EXECUTIVES AND MANAGERS.
STATUTE.

The proponents of the above-named measure are:

James C. Harrison
Margaret R. Prinzing
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577

(510) 346-6200

CORPORATE CRIME. REPORTING OBLIGATIONS
FOR EXECUTIVES AND MANAGERS.
STATUTE.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 433,971
California Constitution, Article II, Section 8(b)
2. Official Summary Date: Tuesday, 10/16/07
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Tuesday, 10/16/07
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elec. Codes §§ 336, 9030(a)). Friday, 03/14/08
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elec. Code § 9030(b))..... Wednesday, 03/26/08

(If the Proponent files the petition with the county on a date prior to
03/14/08, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties Friday, 04/04/08*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elec. Code § 9030(d)(e)) Friday, 05/16/08

*Date varies based on the date of county receipt

INITIATIVE #1283

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 04/04/08, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (Elec. Code §§ 9030(f)(g), 9031(a))Monday, 05/26/08*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)).Tuesday, 07/08/08

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 05/26/08, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)Saturday, 07/12/08*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

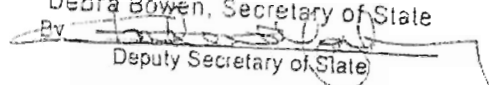
Public: (916) 445-9555
Telephone: (916) 445-1968
Facsimile: (916) 324-8835
E-Mail: Toni.Melton@doj.ca.gov

October 16, 2007

FILED
In the office of the Secretary of State
of the State of California

Debra Bowen
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, CA 95814

OCT 16 2007

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

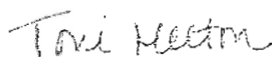
RE: Title and Summary for Initiative No. 07-0051
TITLE: CORPORATE CRIME. REPORTING OBLIGATIONS FOR EXECUTIVES
AND MANAGERS. STATUTE.

Dear Ms. Bowen:

Pursuant to the provisions in sections 336 and 9004 of the Elections Code, enclosed please find a copy of the Title and Summary issued for Initiative Number 07-0051 and text of the proposed measure.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



TONI MELTON
Initiative Secretary

For EDMUND G. BROWN JR.
Attorney General

Enclosures

Proponents' public information:

James C. Harrison
Margaret R. Prinzing
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Telephone: 510 346 6200
Facsimile: 510 346 6201

Date: October 16, 2007
Initiative No. 07-0051

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CORPORATE CRIME. REPORTING OBLIGATIONS FOR EXECUTIVES AND MANAGERS. STATUTE. Requires that executives and managers of corporations or limited liability companies report, in writing, any violation by company involving financial fraud, consumer protection, health and safety, environmental protection or labor. Establishes criminal penalties (jail up to one year and/or fine up to \$100,000) for failure to report within 15 days after actual knowledge of violation acquired. Defines manager as having both management authority and significant responsibility for an aspect of business. Defines actual knowledge as information that would convince a reasonable person in same situation that violation exists. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably minor local and state enforcement and prosecution costs, partly offset by increased fine revenue. (Initiative 07-0051.)

August 23, 2007

RECEIVED

AUG 24 2007

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Toni Melton

Re: *The Corporate Crime Reporting Act (Version 2)*

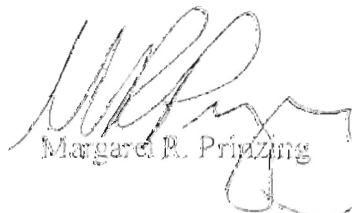
Dear Ms. Melton:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of version 2 of a measure entitled "The Corporate Crime Reporting Act." The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Margaret R. Prinzing
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,


James C. Harrison
Margaret R. Prinzing

JCH:NL
Enclosures
(06039923)

THE CORPORATE CRIME REPORTING ACT

SECTION ONE. FINDINGS AND DECLARATIONS.

The People of the State of California find and declare the following:

(a) Chief executive officers and corporate managers should be required to report violations of the law to state authorities and should be punished if they conceal illegal activity at their companies.

(b) Corporate managers are already criminally liable in California for concealing workplace dangers and the same standard should apply if they conceal other violations of the law at their company from the public.

(c) Individuals who run corporations must be held personally accountable for their conduct if corporations are to be accountable to the rule of the law.

SECTION TWO. PURPOSE AND INTENT.

In enacting this Act, it is the purpose and intent of the People of the State of California to:

(a) Require directors, officers, members and managers of foreign and domestic corporations and limited liability companies to report acts or omissions by the corporation or limited liability company that violate the law to the Attorney General or the appropriate government agency.

(b) Impose criminal penalties against corporate directors, officers, members and managers who fail to report their corporation or limited liability company's unlawful activities to the Attorney General or the appropriate government agency.

SECTION THREE. Section 388 is hereby added to Part 1, Title 19 of the Penal Code to read:

(a) An officer or director of a domestic or foreign corporation as defined in Corporations Code section 162, 167 or 171, respectively, an officer or member of a limited liability company, or a manager of a corporation or limited liability company as defined in paragraph (1) of subdivision (e), is guilty of a public offense punishable by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both a fine and imprisonment, if:

(1) The officer, director or manager of a corporation or officer, member or manager of a limited liability company has actual knowledge of an action taken or about to be taken, or a failure to act, by the corporation or an officer, director, agent or manager of the corporation, or the limited liability company or an officer, member or manager of the limited liability company, in violation of a state or federal statute or regulation

concerning financial fraud, consumer protection, health and safety, the environment or labor that is applicable to the corporation or an officer, director, agent or manager of the corporation, or limited liability company or an officer, member or manager of the limited liability company; and

(2) The officer, director or manager of a corporation or officer, member or manager of a limited liability company knowingly fails to inform the Attorney General or a government agency with enforcement authority over the state or federal statute or regulation that has been violated of the action or failure to act in writing within 15 days after the actual knowledge is acquired, unless the officer, director or manager of a corporation or officer, member or manager of a limited liability company has actual knowledge that the Attorney General or appropriate government or law enforcement agency has been informed; and

(3) A state or federal court or agency later finds or determines that the action or failure to act by the corporation or an officer, director, agent or manager of the corporation, or the limited liability company or an officer, member or manager of the limited liability company violated a state or federal statute or regulation.

(b) Disclosure is not required under this section if the action taken or about to be taken, or failure to act, by the corporation or an officer, director, agent or manager of the corporation, or the limited liability company or an officer, member or manager of the limited liability company under paragraph (1) of subdivision (a) is abated within the time prescribed for reporting, unless a state or federal statute or regulation otherwise requires disclosure.

(c) If the action or failure to act reported to the Attorney General pursuant to this section implicates the enforcement authority of a government agency other than, or in addition to, the Attorney General, the Attorney General shall promptly inform that agency of the notice. If the action or failure to act reported to a government agency implicates the authority of the Attorney General, the agency shall promptly inform the Attorney General of the notice. This subdivision shall not preclude the Attorney General from prosecuting any action within his or her jurisdiction.

(d) If the Attorney General was not notified pursuant to paragraph (2) of subdivision (a), but the officer, director or manager of the corporation or officer, member or manager of the limited liability company reasonably and in good faith believed that he or she was complying with the notification requirements of this section by notifying a government agency with enforcement authority over the state or federal statute or regulation that has been violated, no penalties shall apply.

(e) For purposes of this section:

(1) "Manager" means a person having both management authority and significant responsibility for an aspect of a business entity.

(2) "Actual knowledge" means information that would convince a reasonable person under the circumstances that a violation of a statute or regulation exists.

(f) A disclosure made by any person pursuant to this section shall not relieve any other person from the obligation to make the disclosure required by this section, except as provided in paragraph (2) of subdivision (a).

(g) A disclosure made by any person pursuant to this section shall not relieve that person from any liability for his or her own wrongdoing.

(h) This section may not be interpreted to require an officer, director or manager of a corporation or an officer, member or manager of a limited liability company to make any disclosure that would violate the lawyer-client privilege of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(i) This section shall not be interpreted to deprive an officer, director or manager of a corporation or an officer, member or manager of a limited liability company of the privilege against self-incrimination as guaranteed by the United States and California Constitutions, nor to prevent him or her from exercising that privilege.

(j) An action pursuant to this section may be brought by the Attorney General or a district attorney or city attorney in the name of the people of the State of California.

(k) Nothing in this section affects any other existing statute, right or remedy.

SECTION FOUR. SEVERABILITY.

If any provision of this act, or part of this act, is for any reason held to be invalid, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SECTION FIVE. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures concerning the reporting of corporate wrongdoing shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.